

United States District Court

**FOR THE
NORTHERN DISTRICT OF CALIFORNIA
CRIMINAL DIVISION**

VENUE: SAN FRANCISCO

UNITED STATES OF AMERICA,

v.

NEWCON INTERNATIONAL LTD.

PJH

FILED

DEC - 4 2007

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DEFENDANT.

INDICTMENT

A true bill.

Edie P. Keller Foreman

Filed in open court this 4th day of
December 2007.

Clerk

Bail. \$~~100.00~~ *100.00*

United States District Court

FOR THE
NORTHERN DISTRICT OF CALIFORNIA
CRIMINAL DIVISION

VENUE: SAN FRANCISCO

CR 07

0765

PJH

UNITED STATES OF AMERICA,

v.

DEC - 4 2007

MENDEL BEKER, a.k.a. Mikhail Lvovich, a.k.a. Michael Beker RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DEFENDANT.

INDICTMENT

A true bill.



Foreman

Filed in open court this 4th day of
December 2007.

Clerk



Bail, \$ no bail defendant waives

United States District Court

FOR THE
NORTHERN DISTRICT OF CALIFORNIA
CRIMINAL DIVISION
VENUE: SAN FRANCISCO

[REDACTED] 08/25
UNITED STATES OF AMERICA,

PJH

v.

ARIE PRILIK

FILED

DEC - 4 2007

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DEFENDANT.

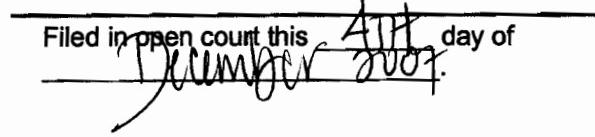
INDICTMENT

A true bill.



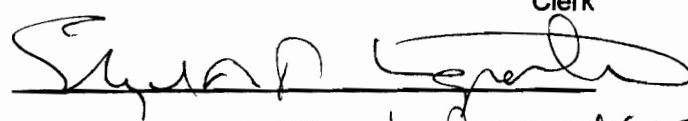
Foreman

Filed in open court this 4th day of



December 2007.

Clerk



Bail, \$ no bond or cash deposit required

PENALTY SHEET

Individual: Arie Prilik

18 U.S.C. §1343 - Fraud by Wire

Maximum Penalties:

1. \$250,000 or two times the loss, whichever is greater
2. A term of imprisonment of 20 years
3. A term of probation of at least one year but not more than five
4. \$100 special assessment per count (\$200)
5. Restitution

18 U.S.C. § 371 - Conspiracy to Commit Wire Fraud

Maximum Penalties:

1. \$250,000 or two times the gain or loss, whichever is greater
2. A term of imprisonment of 5 years
3. A term of probation of at least one year but not more than five
4. \$100 special assessment per count (\$100)
5. Restitution

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION IN U.S. DISTRICT COURT

BY: COMPLAINT INFORMATION INDICTMENT
 SUPERSEDING

OFFENSE CHARGED

18 U.S.C. Section 1343 - Scheme by
 Wire; 18 U.S.C. Section 371 -
 Conspiracy; 18 U.S.C. Section
 1956(a)(2)(A) - Money Laundering

Petty
 Minor
 Misdemeanor
 Felony

PENALTY:

See attached [REDACTED]

PROCEEDING

Name of Complainant Agency, or Person (&Title, if any)

person is awaiting trial in another Federal or State Court, give name of court

this person/proceeding is transferred from another district per (circle one) FRCrP 20, 21 or 40. Show District

this is a reprocsecution of charges previously dismissed which were dismissed on

U.S. Atty Defense

this prosecution relates to a pending case involving this same defendant

prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

} SHOW DOCKET NO.

MAGISTRATE CASE NO.

Name and Office of Person Jeane Hamilton
 Furnishing Information on Antitrust Division
 THIS FORM U.S. Dept. of Justice
 San Francisco Field Office

U.S. Atty Other U.S. Agency

Name of Asst. U.S. Atty
 (if assigned)

ADDITIONAL INFORMATION OR COMMENTS**PROCESS:**

SUMMONS NO PROCESS* WARRANT Bail Amount: _____

If Summons, complete following:

Arraignment Initial Appearance

Defendant Address:

*Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time: _____

Before Judge: _____

Comments: _____

Name of District Court, and/or Judge/Magistrate Location
NORTHERN DISTRICT OF CALIFORNIA

DEFENDANT - U.S.

FILED

Mendel Beker a.k.a. Michael Beker a.k.a.

Michael Lvovich

DEC - 4 2007

DISTRICT COURT NUMBER

CR 07 0765 - PJB RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

DEFENDANT**IS NOT IN CUSTODY**

- Has not been arrested, pending outcome this proceeding.
- 1) If not detained give date any prior summons was served on above charges
 - 2) Is a Fugitive
 - 3) Is on Bail or Release from (show District)

IS IN CUSTODY

- 4) On this charge
 - 5) On another conviction
 - 6) Awaiting trial on other
- } Fed'l State

If answer to (6) is "Yes", show name of institution

Has detainer been filed? Yes No } If "Yes" give date filed

DATE OF ARREST Month/Day/Year

Or... if Arresting Agency & Warrant were not

Month/Day/Year

DATE TRANSFERRED TO U.S. CUSTODY

This report amends AO 257 previously submitted

PENALTY SHEET

Individual: Mendel Beker a.k.a. Michael Beker a.k.a. Michael Lvovich

18 U.S.C. §1343 - Fraud by Wire

Maximum Penalties:

1. \$250,000 or two times the gain or loss, whichever is greater
2. A term of imprisonment of 20 years
3. A term of probation of at least one year but not more than five
4. \$100 special assessment per count (\$200)
5. Restitution

18 U.S.C. § 371 - Conspiracy to Commit Wire Fraud

Maximum Penalties:

1. \$250,000 or two times the gain or loss, whichever is greater
2. A term of imprisonment of 5 years
3. A term of probation of at least one year but not more than five
4. \$100 special assessment per count (\$100)
5. Restitution

18 U.S.C. 1956(a)(2)(A) - Money Laundering

Maximum Penalties:

1. \$500,000 or twice the value of the monetary instrument or funds involved in the transportation, transmission, or transfer, whichever is greater
2. A term of imprisonment of 20 years.
3. A term of probation of at least one year but not more than five
4. \$100 special assessment per count (\$100)
5. Restitution
6. Forfeiture

PENALTY SHEET

Corporation: Newcon International Ltd.

18 U.S.C. § 1343 - Wire Fraud

Maximum Penalties:

1. \$250,000 or two times the loss or gain, whichever is greater
2. A term of probation of at least one year but not more than five
3. \$100 special assessment per count (\$200)
4. Restitution

18 U.S.C. § 371 - Conspiracy to Commit Wire Fraud

Maximum Penalties:

1. \$250,000 or two times the gain or loss, whichever is greater
2. A term of probation of at least one year but not more than five
3. \$100 special assessment per count (\$100)
4. Restitution

18 U.S.C. 1956(a)(2)(A) - Money Laundering

Maximum Penalties:

1. \$500,000 or twice the value of the monetary instrument or funds involved in the transportation, transmission, or transfer, whichever is greater.
2. A term of probation of at least one year but not more than five.
3. \$100 special assessment per count
4. Restitution
5. Forfeiture

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION IN U.S. DISTRICT COURT

BY: COMPLAINT INFORMATION INDICTMENT
 SUPERSEDING

OFFENSE CHARGED

18 U.S.C. Section 1343 - Scheme by
 Wire; 18 U.S.C. Section 371 -
 Conspiracy; 18 U.S.C. Section
 1956(a)(2)(A) - Money Laundering

Petty
 Minor
 Misdemeanor
 Felony

PENALTY:

See attached

Name of District Court, and/or Judge/Magistrate Location
NORTHERN DISTRICT OF CALIFORNIA

DEFENDANT - U.S.

FILED
 Newcon International Ltd. aka Newcon
 Optik

DISTRICT COURT NUMBER DEC - 4 2007

CR 07 0765 - PJH RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

DEFENDANT**IS NOT IN CUSTODY**

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 - 3) Is on Bail or Release from (show District)

IS IN CUSTODY

- 4) On this charge
 - 5) On another conviction
 - 6) Awaiting trial on other
- } Fed'l State

If answer to (6) is "Yes", show name of institution

Has detainer been filed? Yes No } If "Yes" give date filed _____

DATE OF ARREST Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED TO U.S. CUSTODY Month/Day/Year

This report amends AO 257 previously submitted

ADDITIONAL INFORMATION OR COMMENTS**PROCESS:**

SUMMONS NO PROCESS* WARRANT Bail Amount: _____

If Summons, complete following:

Arraignment Initial Appearance

Defendant Address:

*Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time: _____

Before Judge: _____

Comments: _____

1 JEANE HAMILTON (CA State Bar No. 157834)
 2 NATHANAEL M. COUSINS (CA State Bar No. 177944)
 2 DAVID J. WARD (CA State Bar No. 239504)
 Antitrust Division
 3 United States Department of Justice

FILED

4
 5 DEC - 4 2007
 6 RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 7 NORTHERN DISTRICT OF CALIFORNIA

8 UNITED STATES DISTRICT COURT
 9
 10 SAN FRANCISCO DIVISION

PJH

11 UNITED STATES OF AMERICA,)	No.
12 Plaintiff,)	<u>07cr0456</u>
13 v.)	<u>07cr0456</u>
14 MENDEL BEKER, a.k.a.)	<u>07cr0456</u>
15 Mikhail Lvovich, a.k.a. Michael Beker,)	<u>07cr0456</u>
16 ARIE PRILIK and)	<u>07cr0456</u>
17 NEWCON INTERNATIONAL LTD.)	<u>07cr0456</u>
18 Defendants.)	SAN FRANCISCO VENUE

19
 20 INDICTMENT

21 The Grand Jury charges:

22 BACKGROUND

23 At all times relevant to this Indictment:

24 1. Night vision goggles are specially constructed binoculars that allow the user
 25 to see objects and surroundings in the dark without additional illumination. The quality of
 26 night vision goggles is graded by generations (known as "Gen"), and include Gen I and
 27 Gen II night vision goggles. Gen II goggles contain more sophisticated technology than
 28 Gen I goggles.

18

1 2. Defendant NEWCON INTERNATIONAL LTD. ("NEWCON"), also
2 known as Newcon Optik, was a privately held company based in Toronto, Canada.
3 NEWCON sells night vision goggles. Whenever in this Indictment reference is made to
4 any act, deed, or transaction of NEWCON, the allegation means that NEWCON engaged
5 in the act, deed, or transaction by or through its officers, directors, employees, agents, or
6 other representatives while they were actively engaged in the management, direction,
7 control, or transaction of NEWCON'S business or affairs.

8 3. Defendant MENDEL BEKER, a resident of Toronto, Canada, was president
9 and chief executive of NEWCON.

10 4. Defendant ARIE PRILIK, a resident of Toronto, Canada, was a vice president
11 at NEWCON and reported to BEKER.

12 5. On or about February 14, 2005, the U.S. Army's Tank-Automotive and
13 Armaments Command ("TACOM"), the military unit tasked with equipping and training
14 the Iraqi Army, awarded a contract valued at approximately \$250 million to International
15 Trade Establishment ("ITE"), a civilian military supplier based in Amman, Jordan.
16 Known as the Battalion Set II contract, the contract required ITE to supply the Iraqi Armed
17 Forces with weapons, communications equipment and Gen II night vision goggles.

18 6. On or about March 12, 2005, ITE awarded the night vision goggles portion of
19 the Battalion Set II contract to American Technologies Network, Inc. (“ATN”), a South
20 San Francisco-based corporation.

21 | COUNTS ONE AND TWO: (18 U.S.C. § 1343 - Wire Fraud)

22 || 7. Paragraphs 1 through 6 are realleged as if fully set forth here.

THE SCHEME TO DEFRAUD

24 8. Beginning in or about August 2005 and continuing until on or about February
25 7, 2006, both dates being approximate and inclusive, in the Northern District of California
26 and elsewhere, the defendants:

MENDEL BEKER, ARIE PRILIK and NEWCON

1 did knowingly and intentionally devise and intended to devise, a scheme and artifice to
2 defraud TACOM as to a material matter, to obtain money and property by means of
3 materially false or misleading pretenses, representations, omissions, and promises, related
4 to TACOM's purchase of night vision goggles under the Battalion Set II contract.

5 9. After failing to disrupt ATN's contract to supply night vision goggles under
6 the Battalion Set II contract, BEKER, PRILIK, and NEWCON devised a scheme to
7 unlawfully enrich themselves by paying ATN to stop supplying night vision goggles under
8 the Battalion Set II contract using false or misleading pretenses, at which point NEWCON
9 would supply the night vision goggles at inflated prices.

10 10. It was part of the scheme and artifice to defraud that BEKER, PRILIK and
11 NEWCON participated in or did the following, among other things:

- 12 a. BEKER contacted an ATN representative and offered to pay ATN to stop
13 supplying night vision goggles under the Battalion Set II contract;
- 14 b. BEKER instructed the ATN representative to create an invoice billing
15 NEWCON \$50,000 and to falsely describe the \$50,000 as a "loan," thereby
16 concealing the true purpose of the \$50,000 -- as an initial payment to
17 induce ATN to stop supplying night vision goggles under the Battalion Set
18 II contract;
- 19 c. BEKER caused \$50,000 to be transferred via wire from a bank account
20 controlled by NEWCON to a bank account controlled by ATN for the
21 purpose of paying ATN to stop supplying night vision goggles under the
22 Battalion Set II contract;
- 23 d. PRILIK told a TACOM contracting official that ATN could no longer
24 supply night vision goggles due to production, export and quality problems.
25 PRILIK's statements included false or misleading pretenses. PRILIK then
26 informed the TACOM official that NEWCON could supply the night vision
27 goggles, but at a substantially higher price.

THE USE OF THE WIRES

2 11. On or about the dates listed below, in the Northern District of California
3 and elsewhere, for the purpose of executing the aforementioned scheme and artifice to
4 defraud, and attempting to do so, defendants:

MENDEL BEKER,
ARIE PRILIK and
NEWCON

7 knowingly transmitted and caused to be transmitted, in interstate and foreign commerce,
8 wire communications as set forth below:

	<u>Count</u>	<u>Date</u>	<u>Route of Wire</u>	<u>Description</u>
9	ONE	Sept. 7, 2005	Toronto, Canada to San Mateo, California	\$50,000 wire transfer from Bank of Nova Scotia (Acct#: held by Newcon Optik) to Union Bank of California (Acct#: held by American Technologies Network Corp.)
10	TWO	Sept. 20, 2005	Toronto, Canada to South San Francisco, California	Telephone call from PRILIK to ATN Representative

17 All in violation of Title 18, United States Code, Section 1343.

18 | COUNT THREE: 18 U.S.C. § 371 (Conspiracy to Commit Wire Fraud)

19 12. Paragraphs 1 through 6 and paragraphs 8 through 11 are realleged as if fully
20 set forth here.

21 13. Beginning in or about August 2005 and continuing until on or about
22 February 7, 2006, both dates being approximate and inclusive, in the Northern District of
23 California and elsewhere, the defendants:

MENDEL BEKER,
ARIE PRILIK and
NEWCON

26 did knowingly and intentionally conspire and agree to commit wire fraud, in violation of
27 Title 18, United States Code, Section 371.

28 //

OVERT ACTS

14. As part of the conspiracy, and to carry out its objectives, BEKER and PRILIK, as agents of NEWCON and while they were actively engaged in the management, direction, control or transaction of NEWCON's business affairs, committed or caused to be committed the following overt acts, among others, in the Northern District of California and elsewhere:

- a. On or about August 26, 2005, PRILIK spoke by telephone to an ATN representative, proposing that ATN and NEWCON coordinate the price at which they would offer to sell night vision goggles under the TACOM contract. PRILIK described this as “an illegal antitrust.”
 - b. On or about September 1, 2005, BEKER spoke by telephone to an ATN representative and proposed to compensate ATN in return for ATN’s agreement to stop supplying night vision goggles under the Battalion Set II contract.
 - c. On or about September 7, 2005, BEKER ordered the wire transfer of \$50,000 from a bank account controlled by NEWCON at the Bank of Nova Scotia to a bank account controlled by ATN at the Union Bank of California, the first installment in NEWCON’s payments to ATN in return for ATN’s agreement to stop supplying night vision goggles under the Battalion Set II contract.
 - d. On or about September 20, 2005, PRILIK spoke by telephone to an ATN representative and, among other things, pressed him to sign an agreement containing the false or misleading pretenses under which ATN would stop supplying night vision goggles under the Battalion Set II contract.

All in violation of Title 18, United States Code, Section 371.

COUNT FOUR: (18 U.S.C. 1956(a) - Money Laundering)

15. Paragraphs 1 through 6 and 8 through 11, are realleged as if fully set forth here.

16. On or about September 7, 2005, within the Northern District of California and elsewhere, the defendants:

MENDEL BEKER and
NEWCON

did transport, transmit or transfer, or cause to be transported, transmitted or transferred, or did attempt to transport, transmit or transfer, a monetary instrument or funds from a place outside the United States to a place in the United States, with the intent to promote the carrying on of specified unlawful activity, namely Wire Fraud as alleged in Counts One and Two herein, by transferring \$50,000 from a bank account controlled by NEWCON at the Bank of Nova Scotia in Toronto, Canada, to a bank account controlled by ATN at the Union Bank of California in the Northern District of California, in violation of Title 18, United States Code, Section 1956(a)(2)(A).

FORFEITURE ALLEGATION: (18 U.S.C. § 982(a)(1))

17. Paragraphs 1 through 6, 8 through 11, and paragraph 16 are hereby re-alleged as if fully set forth here, for the purpose of alleging forfeiture pursuant to the provisions of Title 18, United States Code, Section 982(a)(1).

18. Upon conviction of the offense alleged in Count Four of this Indictment, the defendants:

MENDEL BEKER and
NEWCON

shall forfeit to the United States pursuant to Title 18, United States Code, Section 982(a)(1), all right, title and interest in property, real or personal, involved in said violation, or any property traceable to such property, including but not limited to:

- a. all property used in any manner to commit or facilitate the commission of said offenses, including but not limited to \$50,000 transferred from a NEWCON bank account at the Bank of Nova Scotia to an ATN bank account at the Union Bank of California

Indictment - Page 6

1 b. a sum of money equal to the total amount of money involved in the
 2 commission of said offenses.
 3 19. If, as a result of any act or omission of the defendants, any of said property
 4 a. cannot be located upon the exercise of due diligence,
 5 b. has been transferred or sold to or deposited with a third person,
 6 c. has been placed beyond the jurisdiction of the Court,
 7 d. has been substantially diminished in value, or
 8 e. has been commingled with other property that cannot be divided
 9 without difficulty,
 10 any and all interest the defendants have in any other property, up to the value of the
 11 property described in paragraph 18 above, shall be forfeited to the United States pursuant
 12 to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States
 13 Code, Section 982(b)(1).

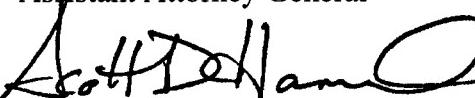
14

DATED:

A TRUE BILL

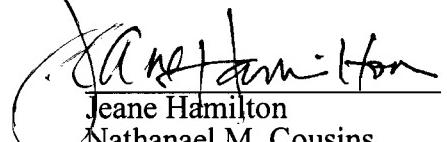

 16 Thomas O. Barnett
 17 Assistant Attorney General


 16 Edw P. Kelly
 17 FOREPERSON


 18 Scott D. Hammond
 19 Deputy Assistant Attorney General


 18 Phillip H. Warren
 19 Chief, San Francisco Office


 20 Marc Siegel
 21 Director of Criminal Enforcement


 20 Jeane Hamilton
 21 Nathanael M. Cousins
 22 David J. Ward
 23 Attorneys

24 United States Department of Justice
 25 Antitrust Division

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 26 Antitrust Division
 27 450 Golden Gate Ave.
 28 Box 36046, Room 10-0101
 San Francisco, CA 94102
 (415) 436-6660


 26 Scott N. Schools
 27 United States Attorney
 28 Northern District of California